

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

CARL ANDREWS,

Defendant.

19 Cr. 131 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

A date for the jury trial in this case has been set, and approved by the Board of Judges, for **Tuesday, October 20, 2020**. The Court has confirmed this date with counsel. **This is a firm trial date.** Because the date has been set in conjunction with the setting of other jury trial dates during the fourth quarter of 2020, and because the District's capacity to host jury trials is limited by current safety protocols, this date cannot be readily moved.

In light of the forthcoming trial date, and in light of the unique challenges presented by the current public health circumstances, the Court orders the following:

1. A pretrial conference will be scheduled each week between next week and the week of trial, to enable the Court promptly to be alerted to and address any issues that have arisen. As counsel have been notified, the first such conference will be held telephonically on **Friday, September 11, 2020, at 9 a.m.** The Court will endeavor to schedule future conferences on dates and times consistent with counsel's schedules. However, given the Court's intention that the defendant attend these conferences, and the limited capacity of the Bureau of Prisons ("BOP") to produce defendants for such conferences (whether telephonic, videographic, or in person), the Court cannot

guarantee that the time period it requests for conferences will always be approved.

The Court expects counsel to be adaptable given the importance of these conferences.

2. The Court orders that the Bureau of Prisons make Mr. Andrews, who is presently housed at the MCC, available for in-person attorney-client meetings with his counsel Susan Kellman, Esq., and Ezra Spilke, Esq. These meetings are to occur twice per week, for at least four hours per meeting, beginning the week of Monday, September 14, 2020, and continuing each week until the commencement of trial. These meetings are essential to assure Mr. Andrews a fair trial. These meetings are particularly essential because Ms. Kellman—who was appointed in April 2020 to succeed Mr. Andrews’s lead counsel at Mr. Andrews’s first trial, which was suspended in March 2020 on account of the pandemic and in which the Court later declared a mistrial—has yet to meet Mr. Andrews in person. Because the Court has found Mr. Andrews to be a danger to the community, the alternative of releasing him prior to trial is not viable.
3. To assure that there is full compliance with and no confusion about these orders, the Court schedules a telephonic conference for **Friday, September 11, 2020, at 11 a.m.** The conference is to be attended by counsel and by responsible officer(s) of the BOP, including the general counsel of the MCC.<sup>1</sup> At the conference, the Court will review

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<sup>1</sup> The Court asks the BOP to make all efforts to enable Mr. Andrews to attend the 11 a.m. telephonic conference. The Court, however, is mindful that the schedule for conferences involving incarcerated defendants for the week of September 7–11 has already been set (and includes the pretrial conference in this case scheduled for 9 a.m. the same day). It may or may not prove possible to incorporate into this schedule the additional 11 a.m. conference. The Court’s judgment is that it is urgent, given the forthcoming trial date, to hold a conference to confirm logistical arrangements for the meetings between Mr. Andrews and his counsel that the Court has ordered. Accordingly, the 11 a.m. conference will proceed as scheduled even if it proves impossible to secure Mr. Andrews’ participation.

with the BOP and counsel the concrete means by which the BOP intends to make Mr. Andrews available for the twice-weekly pretrial meetings with counsel directed by the Court. In the highly unlikely event that the BOP disputes its ability to comply with this order, the BOP is ordered to show cause at the conference why it cannot do so. However, for avoidance of doubt, the Court's firm intention is to guarantee Mr. Andrews sufficient in-person access to his counsel during his pretrial confinement to assure a fair trial. Unless informed otherwise, counsel and the BOP are to access the call by calling into the Court's dedicated conference line at (888) 363-4749, and entering Access Code 468-4906, followed by the pound (#) key. Counsel are directed to review the Court's Emergency Individual Rules and Practices in Light of COVID-19, found at <https://nysd.uscourts.gov/hon-paul-engelmayer>, for the Court's procedures for telephonic conferences.

4. The Court directs counsel for the Government to serve this order forthwith on the general counsel for the MCC, and to file a letter on the docket of this case attesting to the fact of such service.

SO ORDERED.

  
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PAUL A. ENGELMAYER  
United States District Judge

Dated: September 3, 2020  
New York, New York